Dwelling on selling? Top tips when selling the home

Mark Gleeson

When a client sells their main residence, you can add considerable value by helping them understand key tax, superannuation and social security issues and opportunities.

Capital gains tax (CGT) may be payable if your client sells a property that does not qualify for a full main residence exemption. By understanding the rules, you can not only help clients identify potential CGT implications but can also provide advice on how the sale proceeds could be used to top up retirement savings and to understand the impact on social security entitlements.

These are my top tips to build stronger relationships with your clients and help them nail down key opportunities when selling their home.

Understand the CGT foundations

The following sets out some fundamental CGT considerations:

Check for full main residence exemption

To qualify for a full main residence exemption, the property must have been:

- their home for the whole period of ownership
- not used to produce income, and
- on land up to two hectares.

Trusts and companies are not eligible for the main residence exemption (although an exception applies for a special disability trust).

A recent change to be aware of is the removal of the main residence exemption for non-residents. For disposals from 1 July 2020, the exemption is only available if your client has been a non-resident for six years or less *and* one of the following 'life events' occurs during that period:

- the client, spouse or child under age 18 had a terminal medical condition, or
- the spouse or child under age 18 died, or
- the client had a relationship breakdown.

Determine the main residence

Several factors determine if a property qualifies as the main residence and the importance of each factor varies depending on the case.

Key factors include:

- whether the client or their family live there
- how long they have lived there
- the intention to occupy the property
- the delivery of personal mail to the premises
- the location of personal belongings
- whether it is the address on the electoral roll, and
- whether utilities are connected.

The client's accountant should confirm whether the property qualifies as the main residence. If eligible, the exemption applies from the time the property is acquired, provided the client moves

in 'as soon as practicable' after acquisition. Delays in moving in due to an illness or other unforeseen circumstance may be allowed, provided the client moves in immediately after the cause of the delay ends. Not moving in 'as soon as practicable' because the property was rented out at the time of purchase is not an acceptable reason for delay. In this case, a partial CGT exemption applies.

Case study 1: Watch out for non-residents
Nick (58) has owned his main residence since 2013 and would ordinarily qualify for a full CGT exemption. However, he moved to Greece for three years and became a non-resident. Unfortunately, Nick is not eligible for either a full or partial CGT exemption. While he was a non-resident for less than six years at the time of disposal, a qualifying 'life event' didn't occur. Also, the 50% discount is not available as the asset was acquired after 8 May 2012.

Utilise the indefinite exemption and six-year exemption
When a client moves out of the main residence and does not use the home to produce income, they can continue to elect for that property to be their main residence indefinitely.

In contrast, if the home is used to produce income, the CGT exemption can continue for up to six years. Also, if the client moves back home within six years and re-establishes the main residence (based on the factors above), the six-year period recommences for a subsequent departure. A client can therefore live in the home and move out multiple times without affecting the main residency status. In some states and territories, land tax may apply when renting the former home.

Case study 2: Renting less than six years
Casey moves into aged care. She decides to rent her main residence and her adviser calculates that this will help support her cashflow as he incurs aged care fees. If Casey decides to sell her property, it will be treated as her main residence for the entire period of ownership, and she will not pay CGT.

Apply the partial exemption correctly
If a home does not qualify for a full main residence exemption, a partial exemption may apply. In certain cases, the amount of the capital gain added to taxable income is calculated by dividing the number of days when the home is not used as the main residence by the total ownership days. However, partial exemptions are complex, particularly as a special rule can apply—the 'home first used to produce income' rule. Under this rule, a client generally acquires a property when they first use it to produce income.

Case study 3: 'First used to produce income' implications
Nitish bought a property in June 2016 as his main residence for $950,000. On 1 September 2018, he bought a new property and moved in immediately. Nitish kept his former home and rented it out from 2 September 2018, when its market value was $1 million. He decided to treat his new house as his main residence, so the former home ceased to be his main residence. He sold the former home for $1.4 million in November 2024.
Under the 'home first used to produce income' rule, Nitish is deemed to have acquired the former home on 2 September 2018 with a cost base of $1 million. His gross taxable capital gain is $400,000 ($1.4 million less $1 million). Nitish can apply the 50% discount, as the asset has been held for longer than 12 months. He should confirm the tax liability with his accountant.

Build more super with downsizer contributions

Eligible clients can add $300,000 per person to their super by making downsizer contributions. Unlike most contribution types, the downsizer contribution has no upper age limit—just a minimum age of 55 years. This creates more opportunities to build super for older clients.

Downsizer contributions can be made regardless of a client's total super balance (TSB). However, a downsizer contribution will be included in the client's TSB at the next 30 June. This may affect eligibility to make other contributions in a subsequent financial year, such as non-concessional contributions and catch-up concessional contributions.

Three common downsizer mistakes
Mistake 1: You do not need a full main residence exemption
One of the requirements for downsizer is that the property qualifies for a main residence exemption, in full or in part. That is, a client can make a downsizer contribution if they qualify for a partial exemption and the proceeds do not need to be apportioned for the $300,000 limit. If your client owns investment properties that qualify for a partial exemption, you may wish to investigate downsizer opportunities when disposing of these assets, along with other contribution opportunities to reduce the CGT impact.

Mistake 2: You do not need to live in the property for at least 10 years
Two key requirements for downsizer contribution include that the client:
- has owned the property for at least 10 years, and
- is eligible for a full or partial main residence exemption.

Provided the client lived in and treated the property as their main residence at some point, it may be eligible for a partial CGT exemption.

The quote

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Mark Gleeson, MLC Technical Services

Mark is Senior Technical Services Manager and has 20 years' experience within the financial planning industry including in superannuation, insurance, retirement income streams and strategy development. In his role he provides technical support and advice on complex matters, writes technical bulletins and delivers presentations. Previously, Mark had technical services roles at Perpetual and Asteron. Mark holds a B.Econ (Finance & Economics), an Adv. Dip. of Financial Planning and has attained the Chartered Financial Planner designation.

The quote

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Mistake 3: Both spouses do not need to be on the title

A spouse who is not on the property title can still make a downsizer contribution. They just need to have lived in the property for some period, such that a main residence exemption, in full or part, would have applied if they had ownership. In these cases, you can explore downsizer for both members of a couple.

Home in on the social security exemption

Proceeds received from the sale of a home can impact Centrelink payments, including Age Pension. If your client sells their home, the proceeds intended to be used to acquire another home are exempt from the assets test for up to 24 months from the date of sale. Furthermore, the client continues to be assessed as a homeowner.

Centrelink applies the lower deeming rate (currently 0.25%) to the amount of home sale proceeds intended to be used to purchase another home. This amount is isolated from all other financial investments. Centrelink applies the standard deeming rates to all other financial investments.

In certain cases, a further 12-month extension may apply if:

- your client has made reasonable attempts to acquire another home, and
- there are delays beyond their control.

Different rules applied for home sales before 1 January 2023.

Key takeouts

Your guidance on various technical implications can be invaluable to a client when selling their main residence. If the property does not qualify for a full main residence exemption, you can also explore downsizer contribution opportunities to boost retirement savings without affecting contribution caps. Lastly, if your client receives Centrelink payments and intends to purchase another home, you can assist them to understand the impact of the sale proceeds on their social security benefits. **FS**